

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Applications of AT&amp;T Inc. and Deutsche</b>	)	<b>WT Docket No. 11-65</b>
<b>Telekom AG</b>	)	
	)	
<b>For Consent To Assign Or Transfer Control</b>	)	
<b>Of Licenses and Authorizations</b>	)	

**PETITION TO DENY APPLICATION**

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**PETITION TO DENY APPLICATION**

Absent meaningful conditions and safeguards to protect Mobile Virtual Network Operators (“MVNOs”) from predatory and anti-competitive conduct, IDT Domestic Telecom (“IDT”) petitions the Federal Communications Commission (“Commission”) to deny the proposed applications of AT&T and Deutsche Telekom (“Joint Applicants”) to transfer control of T-Mobile (the “Applications”).<sup>1</sup> As a competitor to and customer of T-Mobile, IDT will show that it has been the victim of anticompetitive actions taken by T-Mobile. This conduct by T-Mobile offers concrete evidence of how the proposed transaction will substantially and permanently reduce competition in the mobile wireless market. If T-Mobile is absorbed into AT&T, the ability of MVNOs that operate using the GSM standard to compete will be substantially undermined, eliminating an important source of competition in the mobile wireless market.

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<sup>1</sup> This Petition is filed pursuant to Section 309(d) of the Communications Act. 47 U.S.C. § 309(d). Since IDT’s TúYo division resells wireless capacity obtained from T-Mobile, it is an interested party with standing to petition for denial of the Applications.

## **INTRODUCTION AND SUMMARY**

The market for mobile wireless services is highly concentrated. Only four national wireless networks operate in the United States. Just as important, only AT&T and T-Mobile utilize the internationally accepted GSM operating standard. Due to the small number of national providers, retail competition depends heavily on the ability of MVNOs to resell the capacity they purchase in direct competition with the network operators. MVNOs compete by developing innovative services, customizing products for discrete customer segments and on price through lower operating expenses. IDT's affiliate, TúYo Mobile division, offers specialized wireless service tailored to the discrete needs of the nation's Hispanic and low-income communities. Since TúYo provides prepaid services and does not perform credit checks, it allows low-income users to access competitively priced wireless services on an affordable basis. This is important to those customers who may not have access to bank accounts, credit cards or other advanced financial products.

This critical source of wireless competition is severely jeopardized by the proposed merger. Since AT&T does not offer a meaningful wholesale offering to MVNOs, T-Mobile is the sole source provider of wholesale services utilizing the GSM standard. However, TúYo's experience shows that T-Mobile is an unreliable partner for MVNOs. Since T-Mobile has no concerns that GSM-based MVNOs will migrate to another network, it has undermined TúYo's sales efforts by threatening distributors of its services. The proposed merger is likely to make matters even worse. Since AT&T has made it clear that it intends to use all available T-Mobile spectrum to implement AT&T's own Long Term Evolution ("LTE") plans, it can be expected that AT&T will cause T-Mobile to withdraw its wholesale offering and likely refuse to renew

existing wholesale service agreements on reasonable terms. In addition, it is likely that the Combined Entity will preclude new MVNOs from accessing their constrained spectrum.

The Joint Applicants concede in their Applications that MVNOs are an important source of current and potential competition in the market. In fact, they rely upon the continued presence of MVNOs as an important alternative source of competitive services to end users. However, the proposed merger will have the opposite effect. By neutering GSM-based MVNOs, retail competition will be reduced by more than just the loss of T-Mobile as a national wireless service provider – it will also result in the disappearance of MVNOs that rely upon T-Mobile. In this case, since two minus one equals zero, the proposed merger is not in the public interest. The Applications should be denied unless extensive, self-enforcing conditions are imposed.<sup>2</sup>

**I. IDT's TUYO SUBSIDIARY PROVIDES SERVICE AS GSM-BASED MVNO**

IDT Telecom, Inc, is a wholly-owned subsidiary of IDT Corporation, a diversified holding company that provides an extensive portfolio of telecommunications and energy-related services. IDT is publicly traded on the NYSE and has more than 1,200 employees on six continents. Its revenues exceeded \$1.4 billion in FY 2010.

IDT Telecom, Inc. is comprised of Telecom Platform Services and Consumer Phone Services. Telecom Platform Services provides various telecommunications services including prepaid and rechargeable calling cards and applications, a range of voice over Internet protocol (VoIP) communications services and wholesale carrier services. Consumer Phone Services provides consumer local and long distance services in the United States.

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<sup>2</sup> If the Commission approves this transaction, any conditions must be tied to publicly defined metrics that do not require a party to seek enforcement from a regulator or court. Examples can include triggers to make spectrum available, change prices or a prohibition on specific commercial practices such as threatening to pull dealer codes for selling competitive services.

In February, 2005, IDT Domestic Telecom, Inc., a subsidiary of IDT Telecom, entered into a Wholesale Supply Agreement with T-Mobile to launch TúYo (IDT Telecom, Inc., IDT Domestic Telecom, Inc. and TúYo Mobile are collectively referred to as “TúYo”). Operating as a MVNO, TúYo Mobile was designed specifically to serve the nation’s low-income and Hispanic communities. TúYo delivers nationwide cellular services with an authentic Hispanic value proposition. TúYo has tailored a wireless solution that provides: (i) competitively-priced rates, within the U.S. and to Latin America; (ii) culturally-relevant content customized for 16 Latin American countries<sup>3</sup>; (iii) a unique set of calling features; (iv) diversified distribution network; and (v) a grassroots level marketing approach to the consumer. The service was launched in response to the intensifying trend of wireless substitution in the prepaid market segment that caters to the low income and “unbanked” consumer and where calling card users are transitioning from wireline phones to mobile phones.

## **II. THE JOINT APPLICANTS MUST AFFIRMATIVELY DEMONSTRATE THAT THE PROPOSED MERGER IS IN THE PUBLIC INTEREST**

Under Federal law<sup>4</sup> the Commission must weigh the potential public interest harms against the benefits of a proposed transaction to “ensure that, on balance, the transfers of control serve the public interest, convenience and necessity.”<sup>5</sup> The Joint Applicants bear the burden of

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<sup>3</sup> TúYo subscribers receive international rates and direct dial out-of-the box voice and SMS services; simple, prepaid rate plans with no credit checks or hidden fees along with longer expiration periods; a complete Spanish language product experience; 24/7 customer service support; and country specific alerts directly to their phones with headlines, sports and more.

<sup>4</sup> See 47 U.S.C. §§ 214(a) and 310(d).

<sup>5</sup> *In the Matter of Applications of VoiceStream Wireless Corporation, PowerTel, Inc., Transferors, and Deutsche Telekom AG, Transferee, for Consent To Transfer Control of Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act*, Memorandum Opinion and Order, FCC 01-142, 16 FCC Rcd 9779, at ¶17 (rel. Apr. 27, 2001).

proof and must show that the transaction's benefits outweigh the potential harms and serve the public interest.<sup>6</sup>

The four factors of the public interest test are: "(1) whether the transaction would result in a violation of the Communications Act or any other applicable statutory provision; (2) whether the transaction would result in a violation of Commission rules; (3) whether the transaction would substantially frustrate or impair the Commission's implementation or enforcement of the Communications Act, or would interfere with the objectives of that and other statutes; and (4) whether the merger promises to yield affirmative public interest benefits."<sup>7</sup> The Commission's public interest analysis encompasses the broad objectives of the Act, "which include, among other things, a deeply rooted preference for preserving and enhancing competition in relevant markets, accelerating private sector deployment of advanced services, promoting a diversity of license holdings, and generally managing the spectrum in the public interest."<sup>8</sup>

As it evaluates the Applications, the Commission must determine the impact on competition that is likely to result from a substantial increase in horizontal market concentration. "Horizontal transactions raise competitive concerns when they reduce the availability of choices to the point where the resulting firm has the incentive and ability either by itself or in coordination with other firms, to raise prices. . . . Absent significant offsetting efficiencies or

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<sup>6</sup> *In the Matter of Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act*, Memorandum Opinion and Order, 14 FCC Rcd 14712, FCC 99-279, at ¶48 (rel. Oct. 8, 1999).

<sup>7</sup> *Id.*

<sup>8</sup> *In the Matter of Applications of AT&T, Inc. and Cellco Partnership d/b/a Verizon Wireless For Consent To Assign or Transfer Control of Licenses and Authorizations and Modify a Spectrum Leasing Arrangement*, WT Docket No. 09-194, Memorandum Opinion and Order, FCC 10-116, 25 FCC Rcd 8704, at ¶23 (rel. June 22, 2010) ("AT&T/Verizon Order").

other public interest benefits, a transaction that creates or enhances market power or facilitates its use is unlikely to serve the public interest.”<sup>9</sup>

The Applications fall short of meeting this standard with respect to MVNOs. The Joint Applicants contend that a multitude of MVNOs (*e.g.* TracFone) provide important sources of competition in the retail market for mobile wireless services. However, they fail to demonstrate – or explain – how MVNOs that provide service over T-Mobile’s GSM-based network will fare after the proposed merger is consummated. That is not surprising since the transaction would likely decimate competition from GSM-based MVNOs. That result would not satisfy the applicable public interest test.

Importantly, AT&T and T-Mobile are the only Mobile Network Operators (“MNOs”) that operate on the GSM standard. Only one of those carriers – T-Mobile – offers a meaningful wholesale product that could support the development of GSM-based MVNOs. If AT&T’s policy of refusing to support the MVNO development infects T-Mobile post-merger, its effect will not be limited to the loss of a single facilities-based competitor. The true impact will be loss from the market of *both* T-Mobile *and* the MVNOs that utilize its network.

### **III. GSM-BASED MVNO COMPETITION HAS ALREADY BEEN MADE PRECARIOUS BY THE ANTI-COMPETITIVE CONDUCT OF THE JOINT APPLICANTS**

Since there are only four national wireless networks, resellers provide important sources of competition in the mobile wireless market. This competition creates pricing pressure. MVNOs tailor services to meet discrete, but important, market segments such as low income consumers, students, the elderly and ethnic groups. TúYo, which has developed services for the low income, unbanked and Hispanic communities, is a perfect example. Consequently, the Commission must

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<sup>9</sup> *Id.* at ¶31.



consider whether the proposed merger will facilitate or hamper competition by MVNOs. This is especially true for GSM-based services since T-Mobile is the sole provider for national network capacity.

Unfortunately, competition by GSM-based MVNOs is severely threatened. AT&T refuses to make available a meaningful wholesale supply agreement to the MVNO community. T-Mobile offers a wholesale product but has proven to be an unreliable partner. Unfortunately, TúYo has experienced first hand how T-Mobile wields its market power to undermine MVNOs.

When TúYo entered into a Wholesale Supply Agreement with T-Mobile in 2005, it could not have anticipated the predatory and anti-competitive conduct that its own vendor would unleash. The scope and extent of T-Mobile's actions did not become evident until March 2006 when TúYo ramped up its marketing efforts. At that time, T-Mobile sent a communication threatening wireless dealers and sub-dealers with losing the ability to sell T-Mobile products if they sold TúYo. One such email warned:

We would like to inform you that as of now Dealers have 2 choices when it comes to selling TuYo (IDT) Prepay Reseller or any T-Mobile Reseller.

If the Dealer decides to sell any T-Mobile reseller products we will have no choice than to pull our products off shelves and shut off the dealer codes.

Or the Dealer can continue to sell TMO and not one of T-Mobile resellers and will not be in danger of losing their Dealer code.<sup>10</sup>

Dealers responded to T-Mobile's threats by stopping their sales of TúYo products. Although TúYo complained that T-Mobile's campaign was severely undermining its ability to provide

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<sup>10</sup> Answer of IDT Domestic Telecom, Inc. to Complaint and Counterclaims Against T-Mobile USA, Inc., ¶ 13, Case No. 09-2-19475-1 SEA, Superior Court of the State of Washington in and for the County of King.

resale services, T-Mobile never withdrew its threat to dealers, notwithstanding that TúYo was T-Mobile's wholesale customer.

Despite its predatory and anticompetitive action, T-Mobile later filed a complaint against TúYo in May 2009 in the Superior Court of the State of Washington, King County. T-Mobile alleges that TúYo failed to comply with a minimum purchase requirement and as a result breached the Wholesale Supply agreement. TúYo denied the allegations and brought counterclaims based upon T-Mobile's intentional and tortuous interference with its business by threatening to pull dealer codes if the dealers sold TúYo.<sup>11</sup>

TúYo understands that the Commission will adhere to its long-standing policy of not using merger approvals to adjudicate commercial disputes. However, T-Mobile's conduct is instructive to the Commission as it considers whether the proposed merger is in the public interest.<sup>12</sup> Since T-Mobile is the only GSM-based wireless carrier that offers a meaningful wholesale product for resale, it already is difficult for GSM-based MVNOs to compete in an effective manner in the CMRS market. GSM-based MVNOs operate at the whim and mercy of a sole source provider who has proven to be hostile to the competitors it has contracted with to provide services. That situation will become more acute if T-Mobile is absorbed by a carrier with a history of disinterest in resale customers and antipathy toward MVNO competition.

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<sup>11</sup> The parties are engaged in discovery. Trial is set for August 1, 2011.

<sup>12</sup> T-Mobile does not deny that it provided messages to its dealers and agents giving them a choice of selling either T-Mobile products or a T-Mobile MVNO but not both.

#### IV. SCARCITY OF SPECTRAL CAPACITY PROVIDES AN INCENTIVE FOR THE JOINT APPLICANTS TO REDUCE OR ELIMINATE SERVICES PROVIDED TO MVNOS

The Joint Applicants paint a dire picture of severe spectral capacity constraints. This capacity crisis is the major reason for pursuing this transaction.<sup>13</sup> If the constraints are as severe as the Joint Applicants contend, that scarcity creates sufficient incentive for the Combined Entity to terminate the services it provides to MVNOS in the GSM space in order to use it for its own business purposes and for repositioning that spectrum for LTE. AT&T is clear that it intends to “accelerate the shift of spectrum from less spectrally efficient to more spectrally efficient network technologies (i.e., GSM to UMTS, UMTS to LTE).”<sup>14</sup> The Commission must consider how these capacity constraints will dictate the actions of the Combined Entity and take the steps required to protect the public interest which includes blocking this proposed transaction.

The Joint Applicants urge the Commission to consider the impact of MVNOS in its competitive analysis on the transaction. They find support in a decision from the European Union (“EU”) involving a transaction between T-Mobile and Orange (“*Orange Order*”).<sup>15</sup> However, the *Orange Order* provides a valuable tutorial in the dangers to competition posed by the merger of MNOs. The EU recognized that it is critical to consider the probable effect of a proposed merger on *both* retail and wholesale markets for mobile wireless services. The EU recognized that MVNOS cannot thrive unless reasonable wholesale supply agreements are

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<sup>13</sup> See Acquisition of T-Mobile USA, Inc. by AT&T Inc., Description of Transaction, Public Interest Showing and Related Demonstrations (“Application”), pgs. 25 to 33 (April 21, 2011); Declaration of William Hogg, Senior Vice President of Network Planning and Engineering, AT&T Services, Inc., attached to the Application (April 20, 2011) (“Hogg Decl.”), at ¶¶ 6 to 9; 39 and 60.

<sup>14</sup> Hogg Decl. ¶ 13.

<sup>15</sup> Case No. COMP/M.5650 – *T-Mobile/Orange*, EUR-Lex 32010M5650, at 9 (Mar. 1, 2010), [http://ec.europa.eu/competition/mergers/cases/decisions/M5650\\_20100301\\_20212\\_247214\\_EN.pdf](http://ec.europa.eu/competition/mergers/cases/decisions/M5650_20100301_20212_247214_EN.pdf). (“*Orange Order*”).

available. It was in the *wholesale* space that the EU found network operators could have an incentive to terminate services to harm MVNOs.

In its market definition, the EU drew a careful distinction between the supply or wholesale side of the markets and the demand or retail side. It found that “MNOs own their own mobile networks and constitute the supply side, whereas MVNOs and Service Providers, which seek access to one or more of the MNO networks in order to provide their related services, constitute the demand side of the market.”<sup>16</sup> That is an important distinction that the Joint Applicants do not address and which the Commission must investigate. For while the Joint Applicants contend that they will face extensive competition from MVNOs, any such competition will be on the demand or retail side where the Joint Applicants and the MVNOs will compete for end users. The real question is what happens on the supply or wholesale side if the Combined Entity stops providing services to MVNOs. TúYo’s experience with T-Mobile teaches that the results could be catastrophic to both MVNOs and the end-users of GSM services.

Critically, in the *Orange Order*, the EU found that “[s]ufficient unused network capacity is a key prerequisite for supplying wholesale communications to MVNOs and an incentive to attract new wholesale customers.”<sup>17</sup> The EU further stated:

MNOs usually have spare capacity on their networks to address increases in demand within medium term, and consequently, in particular like a situation in the UK where there is already a significant number of MVNOs present in the market, do not have incentives to foreclose MVNOs, as the losses that they would incur in doing so (by losing revenue from the wholesale agreements with MVNOs) exceed any retail revenues they would pick up should the MVNOs exit the market.<sup>18</sup>

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<sup>16</sup> *Id.* at ¶ 28.

<sup>17</sup> *Id.* at ¶ 69.

<sup>18</sup> *Id.* at ¶ 70.

However as the Joint Applicants confess, that is not the case in the United States. Spare capacity may be inadequate to meet increased demand during the medium term. Thus the Combined Entity is likely to view MVNOs as usurping capacity that AT&T would prefer to transition for its exclusive use.

As AT&T states, its plan is to accelerate the “ramping down” of GSM networks.<sup>19</sup> As this occurs and AT&T transitions the capacity to LTE, TúYo expects the Combined Entity to place an increasingly higher value on the acquired spectrum as it drives higher revenues through the sale of smart phones and higher end data users. As T-Mobile states in the Applications, T-Mobile today “occupies an uncomfortable position between high end providers and value competitors.”<sup>20</sup> In a determined effort to reclaim capacity available for use by MVNOs, the Combined Entity is likely to take actions intended to drive MVNOs off the legacy GSM network. The Combined Entity will be inclined to raise prices for GSM services, dictate harsh terms to migrate services, or refuse to renew wholesale agreements.

Unlike in Europe, where many carriers operate with the GSM standard, only two MNOs offer GSM services in the United States: T-Mobile and AT&T. While there may be significant spare capacity available from the numerous GSM-based networks in the EU, that is not the case in the United States. AT&T has indicated that it expects to generate higher revenues by reserving all of its GSM spectrum for its retail offerings or transitioning it to LTE instead of deriving revenue from the sale of spare capacity to MVNOs. Under those circumstances, it is hard to conceive of a situation where AT&T would provide services to MVNOs operating in the GSM space beyond any existing contractual obligations. Even if the Combined Entity allowed contract renewals by existing T-Mobile MVNOs, the Combined Entity would be in a position to

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<sup>19</sup> Hogg Decl. ¶ 11.

<sup>20</sup> Application, pg. 71.

raise rates substantially since affected MVNOs would have no other carrier available to which it could shift its customers.

**V. THE JOINT APPLICANTS OVERSTATE COMPETITIVE BENEFITS OF PROSPECTIVE NEW ENTRANTS**

The Joint Applicants try to ease fears over the size and scope of the Combined Entity by arguing that new entrants and “mavericks” have the ability to “leapfrog” existing networks and move straight to LTE deployment. TúYo offers no opinion on whether those startup companies are likely to exert the competitive pressures that the Joint Applicants predict. However, TúYo submits that the actual benefits of competition from any new network construction will not be as immediate as the Joint Applicants want the Commission to believe.

In support of the Application, AT&T states that the combined footprint of the Combined Entity would take eight years to replicate at AT&T’s current build rates.<sup>21</sup> It is hard to understand how AT&T expects its potential competitors to “leap frog” the Combined Entity’s service availability before they complete construction of networks that are comparable to the Combined Entity. As AT&T admits, it would take about a decade to expand the legacy AT&T network to match the footprint offered by the Combined Entity. The construction of new sites, and presumably new networks, “requires a cumbersome process that is fraught with complexity and the potential for lengthy delays (*e.g.*, vendor equipment issues, acquisition, zoning, permitting, structural analysis, environmental studies).”<sup>22</sup> New entrants face the same issues and cannot deploy their networks any faster. Thus, while the Joint Applicants portray new entrants as a grave competitive threat, any competitive pressures they can provide will come, if at all, far in the future.

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<sup>21</sup> Hogg Decl. at ¶ 67.

<sup>22</sup> Hogg Decl. ¶ 69.

In any event, prospective new entrants do not present a solution for MVNOs (and their end user customers) that are trapped on the Joint Applicants' shrinking GSM service. As AT&T explains, "the ability of a carrier to respond to increases in demand is limited due in part to the limited capability of existing handsets in new technologies."<sup>23</sup> Simply put, older GSM-only devices will not work on networks that have deployed UMTS/HSPA/HSPA+ standards. So while new entrants can deploy an all LTE platform, those networks are not viable competitive alternatives because the existing GSM-based handsets will not work on them. The Joint Applicants concede that for a carrier to migrate its customers to new handsets is a "multiyear undertaking."<sup>24</sup> This reinforces the simple fact that if this transaction is allowed to go through, the Combined Entity will be able to dictate terms to MVNOs operating in the GSM space. The competitive alternatives provided by new entrants will not be available to MVNOs like TúYo and their customers.

## **VI. THE COMBINED ENTITY WOULD BE WELL POSITIONED TO HARM COMPETITION**

The Joint Applicants note that when the Commission analyzes horizontal mergers, it must consider whether anticompetitive harm arises. The first is "coordinated interaction." The second is "unilateral efforts." While AT&T witness Carlton focuses his analysis on the market for end user subscribers, he does not address whether the Combined Entity can undertake such efforts in the wholesale space. That is a critical error because as TúYo's experience with T-Mobile indicates, the Combined Entity will be well positioned to pick from either menu to throttle competition.

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<sup>23</sup> The Combined Declarations of Dennis W. Carlton, Allan Shampine, and Hal Sider, attached to the Application (April 20, 2011) ("Carlton Decl.") ¶ 33.

<sup>24</sup> Application, pg. 24.

Both T-Mobile and AT&T tout that they are organized to drive sales on the local level. In addition to their own Corporate Owned Retail stores (“COR”). AT&T boasts of its substantial additional relationships with local dealers as well as its “big box” retail operators.<sup>25</sup> “Without being embedded like this in places where customers live and work, we could not respond as nimbly and effectively as we must to keep up with the intense competition we face,” warns AT&T declarant Christopher.<sup>26</sup> The same principle holds true for MVNOs like TúYo. However, as T-Mobile’s conduct proves, the Combined Entity is likely to act in a predatory manner to disrupt the ability of MVNOs to distribute their services on an equal footing through retailers by threatening to terminate their own distributorship arrangements. T-Mobile’s threats to TúYo’s distributors have significantly undermined its sales efforts. If retaliatory conduct were undertaken by T-Mobile *and* AT&T post-merger, the consequences could be catastrophic to the sales efforts of GSM-based MVNOs and their customers.

## CONCLUSION

Anytime a transaction reduces the number of wholesale providers of a specific service from two to one, regulators must heed the warning sirens posed by the resulting market concentration. When the conduct of one of those providers, in this case T-Mobile, towards its own resellers is plagued by anticompetitive conduct, regulators must be concerned. When the surviving company in a proposed merger – in this case, AT&T – refuses to offer a meaningful product, regulators must be doubly concerned. Compound those factors by a scarcity in the resold product and the proposed transaction is a recipe for disastrous market concentration and anti-competitive conduct. The best way to protect the public interest is to deny the Applications

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<sup>25</sup> Declaration of David Christopher, Chief Marketing Officer of AT&T Mobility and Consumer Markets business for AT&T Mobility Services, LLC., attached to the Application (April 20, 2011) (“Christopher Decl.”) ¶ 12.

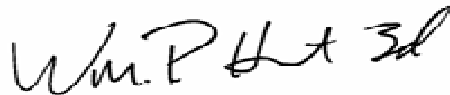
<sup>26</sup> *Id.*



and block the proposed merger. However, if the Commission is inclined to approve the Applications, the approval must at a minimum include conditions that require the Combined Entity to make available to MVNOs a commercially reasonable wholesale services agreement.

Absent meaningful conditions and safeguards to protect MVNOs from predatory and anti-competitive conduct, the Commission must deny the Applications of AT&T and Deutsche Telekom to transfer control of T-Mobile.

Respectfully submitted.  
IDT Domestic Telecom, Inc.  
By its attorneys

A handwritten signature in black ink, appearing to read "Wm. P. Hunt" followed by a stylized flourish.

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